

REMARKS

Claims 2-4, 7-9, 11, 13-15, 18-20, and 23-44 remain in the application with claims 2-4, 7-9, 11, 13-15, 18-20, 24, 26-28, 30-32, 34-36, 39, 41, and 42 having been amended hereby.

Reconsideration is respectfully requested of the rejection of claims 2-4, 7-9, 11, 13-15, 18-20, and 23-40 under 35 USC 102(e) as being anticipated by Shear et al.

As previously explained, the present invention is intended to provide a system that controls the reproduction of digital audio data. Various elements and parameters are detected or sensed to provide control on the output of the digital data. In claim 2, a system is set forth in which it is determined whether or not the external apparatus connected to the interface includes a built-in memory, such as a hard disk drive, which would lend itself to subsequent copying and playback of the transmitted digital audio data. In another system of the present invention, it is detected whether or not the data is being reproduced at a higher speed than normal, which is typically a situation present when the data is to be copied. Also, present in a copying situation is the situation in which the amount of output data provided is greater than or equal to an amount typically found in an album, for example. That is, if only one song is being provided, copying of such single song is not prohibited, whereas, if an entire album was being output then it can be assumed that the album is going to be subsequently copied and reproduced.

As previously noted, Shear et al. relates to a platform that is used to release content to a videocassette recorder. The platform receives an identification that designates the output device as being a videocassette recorder. In that case, the platform can then refuse to provide any output unless a digital ID identifying the output device as a lower quality analog device is provided. Absent such digital ID the Shear et al. platform blocks the recording of the digital data.

In regard to claim 2, it is respectfully submitted that Shear et al. clearly discloses that it is a videocassette recorder that comprises the external apparatus and, clearly, videocassette recorder does not contain a built-in memory means of the kind contemplated by the present invention. In fact, the purchaser of a videocassette recorder must insert a videocassette into the recorder following purchase.

In regard to claim 3, although Shear et al. controls transmission of output data to an external apparatus, Shear et al. is completely silent concerning controlling the transmission of output data to the external apparatus in accordance with the version of the external apparatus, as recited in claim 3.

Furthermore, claim 4 recites still a further approach of the present invention in which the transmission of the output data to the external apparatuses is controlled in accordance with whether the external apparatus is a copyright related apparatus.

It is respectfully submitted that Shear et al. is completely silent concerning controlling outputting of data in accordance with whether the external apparatus is a copyright related apparatus, as taught by the present invention and as recited in the amended claim 4.

In regard to claim 7, although Shear et al. describes charging fees for the outputted data, Shear et al. does not teach controlling transmission of the output data in accordance with the amount of output data that is to be transmitted to the external apparatus.

In regard to claim 8, Shear et al. is completely silent concerning determining whether the data is being output at a specific speed as in the present invention. Although Shear et al. may employ a high-speed memory, this does not imply controlling the output data based upon a speed of data transmission, as in the present invention.

In regard to claim 9, it is respectfully submitted that the capability of the particular platform and/or class of platform in Shear et al. are not associated with the type of recording medium as in the present invention recited in claim 9.

In regard to claim 11, although Shear et al. discloses that a DVD drive may charge for the use of a portion of the distributed data, Shear et al. does not show or suggest the control means that controls a fee charging process performed by a fee charging means in accordance with the type of external apparatus identifying means, as taught by the present

invention and as recited in amended claim 11.

The method claims are similarly distinguished from Shear et al. in the manner set forth above in keeping with the corresponding apparatus claims.

In regard to claim 23, it is respectfully submitted that Shear et al. does not teach a data apparatus having a plurality of interfaces of different types, as recited in claim 23.

Accordingly, by reason of the amendments made to the claims hereby, as well as the above remarks, it is respectfully submitted that a data transmitting apparatus in which various parameters are determined in order to restrict the output of the data, as taught by the present invention and as recited in the amended claims, is not anticipated by Shear et al.

Reconsideration is respectfully requested of the rejection of claims 41-44 under 35 USC 103, as being unpatentable over Shear et al.

As noted by the examiner, the method claims correspond to the associated apparatus claims and, thus, for the reasons set forth hereinabove, it is respectfully submitted that claims 41-44 would not have been rendered obvious by Shear et al.

Accordingly, by reason of the amendments made to the claims, as well as the above remarks, it is respectfully submitted that a data transmitting apparatus and method, as taught by the present invention and as recited in the amended claims, is neither shown nor suggested in the cited


references, alone or in combination.

Entry of this amendment is earnestly solicited and it is respectfully submitted that this amendment raises no new issues requiring further consideration and/or search since now new structural elements were added to the claims in the instant amendments.

Favorable reconsideration is earnestly solicited.

Respectfully submitted,

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